

**Enrolled Minutes of the Ninety-Sixth Regular Meeting
For the Twenty-Fifth Highland Town Council
Monday, June 25, 2007**

Study Session. The Twenty Fifth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, June 25, 2007 at 6:30 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Robert Helmer, Joseph Wszolek, Mark Herak and Dan Dernulc were present. The Deputy Clerk-Treasurer, Carol Morrison was present to record the proceedings. A quorum was attained.

The Town Manager, Richard Underkofler was also present.

General Substance of Matters Discussed.

1. The Town Council discussed the imminent agenda.
2. The Town Council discussed the Public Hearing and the awarding of the bid to Reith Riley for the Branton Avenue Reconstruction Project. In the discussion with John Bach, Public Works Director the Council stressed that the work must be done before winter and the need to oversee the project to avoid delays.
3. Town Council Attorney Rhett Tauber then briefly discussed pending legal matters involving the status of the Finke litigation.

The study session ended at 6:59 O'clock p.m.

Regular Meeting. The Twenty Fifth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, June 25, 2007 at 7:01 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Daniel E. Dernulc presided and the Town Deputy Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with Councilor Bernie Zemen leading the pledge of allegiance to the United States Flag and leading in a prayer.

Roll Call: Present on roll call were Council Members Bernie Zemen, Robert Helmer, Joseph Wszolek, Mark Herak and Daniel Dernulc. The Town Deputy Clerk-Treasurer Carol Morrison was present to memorialize the proceedings. A quorum was attained.

Additional Officials Present: Richard Underkofler, Town Manager; Rhett L. Tauber, Town Council Attorney; John Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; William Timmer, CFOD, Fire Chief; Kenneth J. Mika, Building Commissioner were also present. Alex M. Brown, CPRP, Parks and Recreation Superintendent arrived late.

Minutes of the Previous Session

The minutes of the regular meeting of 11 June 2007 were approved under general consent. Councilor Wszolek asked that the Ordinances & Resolutions be inserted in the minutes as depicted.

Special Orders:

1. **Public Hearing.** Considering remonstrances against the amounts set forth in the Preliminary Determination of Assessments by the Town Council associated with a project to improve the 8700-8900 blocks of Branton Avenue to be known as the Branton Avenue Reconstruction Project financing the cost of these improvements through the Municipal General Improvement Fund. (Works Board Order No. 2007-07)

(a) Verification of Proofs of Publication. (IC 5-3-1; IC 36-9-17) The TIMES: 12 June 2007. The Town Attorney indicated that the proofs of publication were in compliance with the Indiana law.

(b) *Public Hearing Issue:* Whether the lots or tracts of land have been or will be benefited by the Improvements in the amount set forth in the Assessment Roll, such greater or lesser amount, or any amount at all.

1. Tom Cumbee, 8802 Branton, Highland, commented on the cost of the sidewalks and curbs. Mr. Bach responded that sidewalks would only be replaced if they were in disrepair.
2. Steven Shareef, 8933 Branton Avenue, Highland, inquired if the project would be in two phases and what the start date might be. Mr. Bach responded that the work would be done as one project at a savings of \$40,000. Mr. Bach further commented that the project should start by mid July and the contractor has 120 days to complete the project. There is a \$100. per day penalty if not completed on time.

Councilor Herak stated that he knew of some concerns on the Waymond Project and that the Town would stay abreast of the project so that it is completed timely.

3. Jeffrey George, 8907 Branton Avenue, Highland, stated that his assessment did not have sidewalk replacement included. Mr. Bach stated that his sidewalks are evidently in good condition and do not require replacement.

Councilor Zemen stated that Branton was in his ward and that if anyone had any problems to please call him.

There being no further comments, the hearing was closed.

- (c) Consideration of **Works Board Order No. 2007-09.** Councilor Wszolek moved the passage and adoption of Works Board Order No. 2007-09 with a correction that the project is the 8700-8900 blocks of Branton Avenue and the installment period is **four (4) years** with an interest rate of seven and one half (7.5%) percent. Councilor Herak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The works board order was adopted.

TOWN OF HIGHLAND
ORDER OF THE WORK BOARD NO. 2007-09

A Confirming Order Adopting and Approving Municipal General Improvement Fund Special Assessment Rolls for Property Owners Benefiting from the Branton Avenue Reconstruction Project

WHEREAS, Pursuant to Ind. Code 36-1-2-24, the Town Council is the works board for the Town of Highland, Indiana (the "Town"); and

WHEREAS, Pursuant to Ordinance No. 1084, adopted by the Town Council on March 23, 1998, the Town has established a Municipal General Improvement Fund to provide monies to construct, repair, reconstruct or improve certain streets, alleys, sidewalks, curbs, gutters and sewers within the Town; and

WHEREAS, Pursuant to Order of the Works Board No. 2007-06, the Town Council confirmed Works Board Order No. 2007-05 and determined that the benefits to accrue to the property liable to be assessed for reconstruction of curbs and sidewalks in the **8700-8900 block of Branton Avenue** (the "Improvements") will be in excess of the maximum estimated cost of the Improvements; and

WHEREAS, The Town Council did adopt Works Board Order No. 2007-07 preliminarily approving an assessment roll for the Improvements, including the name and owner of each parcel of property abutting on and adjacent to such Improvement, a description of each parcel of such property, and the total assessment against each parcel of property, copies of which are attached hereto as Exhibit A (each, an "Assessment Roll"), has been prepared and filed with this Town Council; and

WHEREAS, The Town Council has held a public hearing, after publication of notice as required by law, and has received and heard all remonstrance from owners of property described in the notice regarding Works Board Order No. 2007-07; and

WHEREAS, The Town Council now desires to confirm preliminary Works Board Order No. 2007-07;

NOW, THEREFORE, be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Town Council hereby confirms Works Board Order No. 2007-07, adopted at its meeting of June 11, 2007;

Section 2. That the Town Council hereby sustains the presumptive assessments as indicated on the Assessment Roll by confirming the presumptive assessment against each of the properties described in the Assessment Roll, which confirmation is based upon this Town Council's findings concerning the special benefits that each property has received or will receive on account of the Improvements (as defined in Works Board Order No. 2007-07);

Section 3. The Town Council hereby directs that the Assessment Roll be delivered to the Clerk Treasurer, and that upon completion of the Improvements, the final Assessment Roll for the Improvements be delivered to the Clerk Treasurer for notification to each affected person and collection of the special assessments;

Section 4. The Town Council hereby determines that owners of properties described in the Assessment Roll may pay such assessments in annual installments over a **period of ____ years**, with interest accruing on such unpaid portions at an **interest rate of 7.5% per annum**, and also approves the substantially final form of Waiver Agreement on file in the Office of the Clerk-Treasurer to be entered into by the Town and each owner of property desiring to pay the assessments in annual installments.

Be it So Ordered.

Duly adopted by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board this 25th day of June 2007 by a vote of 5 in favor and 0 opposed.

HIGHLAND, INDIANA

TOWN COUNCIL OF THE TOWN OF

Daniel E. Dernulc, President

Attest:

Michael W. Griffin, Clerk-Treasurer

Unfinished Business and General Orders:

1. **Introduced Ordinance No. 1359:** Designating an Economic Development Target Area within an Economic Revitalization Area that is coterminous with the boundary of the Highland Redevelopment Area to enable property tax abatement for retail uses. Councilor Zemen introduced and filed at the Town Council meeting of June 11, 2007. There was no further action.

At a meeting held May 14, 2007, the Town Council adopted Resolution 2007-23 designating an Economic Revitalization Area coterminous with the boundary of the Highland Redevelopment Area. This measure, unanimously recommended by the Economic Development Commission at a meeting held May 31, 2007, would enable property tax abatement for installation of new equipment, redevelopment or rehabilitation of real property for retail use.

Councilor Zemen moved to adopt Ordinance No. 1359. Councilor Herak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed.

TOWN OF HIGHLAND, INDIANA ORDINANCE NO. 1359

AN ORDINANCE DESIGNATING AN ECONOMIC DEVELOPMENT TARGET AREA WITHIN THE BOUNDARY OF AN ECONOMIC REVITALIZATION AREA ESTABLISHED BY RESOLUTION 2007-23 ADOPTED MAY 14, 2007 THAT IS COTERMINOUS WITH THE BOUNDARY OF THE HIGHLAND REDEVELOPMENT AREA TO ENABLE PROPERTY TAX ABATEMENT FOR RETAIL USES

WHEREAS, Indiana Code 6-1.1-12.1; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

WHEREAS, On May 14, 2007, the Highland Town Council adopted Resolution No. 2007-23 designating an Economic Development Revitalization Area coterminous with the boundary of the Highland Redevelopment Area; and

WHEREAS, IC 6-1.1-12.1-3(e) provides that any facility the primary purpose of which is retail food or beverage service; automobile sales or service; or other retail is not eligible for property tax abatement unless the facility is located in an Economic Development Target Area; and

WHEREAS, The Town of Highland has heretofore established a Redevelopment Area, the boundaries of which are described at Exhibit A and shown on a map titled Figure A, attached hereto and made a part hereof, which is hereinafter referred to as the Real Estate, and

WHEREAS, The Highland Redevelopment Commission desires to have the Real Estate within the Redevelopment Area designated as an Economic Development Target Area for the purpose of offering property tax savings for retail uses as an incentive to facilitate implementation of its Comprehensive Plan for the Redevelopment Area, and

WHEREAS, IC 6-1.1-12.1-7(a)(1) enables the Town Council to designate an Economic Development Target Area by ordinance after a favorable recommendation by the Economic Development Commission in a specific geographic territory that "has become undesirable or impossible for normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors that have impaired values or prevent a normal development of property or use of property"; and

WHEREAS, IC 6-1.1-12.1-7(b) enables the Town Council to designate up to 15% of the total geographic territory of the town to be in Economic Development Target Areas; and

WHEREAS, At a meeting held May 31, 2007, members of the Highland Economic Development Commission determined the area proposed for an Economic Development Target Area within the Economic Revitalization Area that is coterminous with the Highland Redevelopment Area is substantially less than 15% of the total geographic territory of the town; and

WHEREAS, At the meeting held May 31, 2007, members of the Highland Economic Development Commission unanimously recommended designation of an Economic Development Target Area coterminous with the boundary of the Highland Redevelopment Area to enable property tax abatement for retail uses; and

NOW, THEREFORE, IT IS FOUND, DETERMINED AND ORDAINED, by the Town Council of the Town of Highland as follows:

Section 1. The foregoing findings in the recitals to this ordinance are true, all information required to be submitted has been submitted in proper form and all requirements for approval of property tax abatement for retail uses within the Highland Redevelopment Area have been met.

Section 2. The real estate within an Economic Revitalization Area established by Resolution 2007-23 adopted May 14, 2007 that is coterminous with the boundary of the Highland Redevelopment Area as described at Exhibit A and shown in Figure 1, attached and incorporated herein by reference, is found, declared and designated an Economic Development Target Area.

Section 3. A property owner within said Economic Development Target Area who seeks tax abatement must submit an application of a form approved by the Redevelopment Commission and a "Statement of Benefits" (Form SB-1) prescribed by the Indiana Department of Local Government Finance before installing new equipment or before the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. The application will establish standards to be used for evaluating applications for tax deduction that have a reasonable relationship to development objectives and design standards of the Redevelopment Commission. The application fee shall be \$250.00 to defray actual processing and administrative costs.

Section 4. In the consideration of all abatement applications for retail uses, the Town Council will hold a public hearing before making its decision whether to approve a deduction. The Town Council may approve a deduction period up to ten (10) years.

Section 5. The Clerk-Treasurer is authorized and directed to file a copy of this resolution, including a description of the real estate as contained in **Exhibit A**, with the Lake County Auditor and the Department of Local Government Finance.

Introduced and Filed on the 11th Day of June 2007. Consideration on same day or at same meeting of introduction was not undertaken pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 25th Day of June 2007, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Daniel E. Dernulc, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

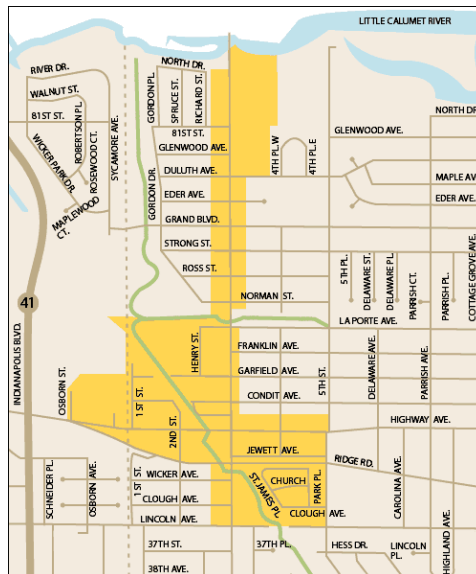
EXHIBIT A

ECONOMIC DEVELOPMENT TARGET AREA WITHIN THE BOUNDARY OF AN ECONOMIC REVITALIZATION AREA ESTABLISHED BY RESOLUTION 2007-23 ADOPTED MAY 14, 2007 THAT IS COTERMINOUS WITH THE BOUNDARY OF THE TOWN OF HIGHLAND REDEVELOPMENT AREA

COMMENCING: at the intersection of the alley West of Lincoln Avenue and Kennedy Avenue;
THENCE: North to Ridge Road;
THENCE: West on Ridge Road to Osborn Street;
THENCE: North on Osborn Street to the NIPSCO Right-of-Way, extending along the Southeast line of the NIPSCO Right-of-Way to a point at which Garfield Avenue would intersect with the Norfolk Southern Railroad;
THENCE: North on along the West side of the Norfolk Southern Railroad to the NIPSCO Right-of-Way and Northwest along the NIPSCO Right-of-Way to LaPorte Avenue, if extended;
THENCE: East along LaPorte Avenue, if extended until the alley on the West side of Kennedy Avenue;
THENCE: North on the West alley of Kennedy Avenue to the Little Calumet River;
THENCE: East along the Little Calumet River for 505 feet;
THENCE: South 983 feet;
THENCE: West 40 feet;
THENCE: South 714 feet along the East side of the alley to the South Right-of-Way of Duluth Avenue;
THENCE: West to the East alley of Kennedy Avenue;
THENCE: South along the East alley of Kennedy Avenue to the NIPSCO Right-of-Way;
THENCE: West to the center of Kennedy Avenue;
THENCE: South along the center of Kennedy Avenue to LaPorte Avenue;
THENCE: East to the east alley of LaPorte Avenue;

THENCE: South to the alley North of Highway Avenue;
THENCE: East along the alley North of Highway Avenue to Fifth Street;
THENCE: South on Fifth Street to Lincoln Avenue;
THENCE: West on Lincoln Street to the point of beginning, the intersection of the alley West of Lincoln Avenue and Kennedy Avenue.

FIGURE 1



2. **Introduced Ordinance No. 1360:** Amending Chapters 130 and 150 of the Highland Municipal Code Prohibiting skateboard use at Main Square Park, at the Town Hall property and in the downtown area. Councilor Herak introduced and filed Ordinance No. 1360 at the Town Council meeting of 11 June 2007. There was no further action.

Councilor Herak moved to adopt Ordinance No. 1360. Councilor Helmer seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed

**Ordinance No. 1360
Of the
TOWN of HIGHLAND, INDIANA**

AN ORDINANCE AMENDING THE HIGHLAND MUNICIPAL CODE BY AMENDING CHAPTER 130 and CHAPTER 150 to PROHIBIT SKATEBOARDING AT THE MUNICIPAL BUILDING, PARTS OF THE DOWNTOWN AND AT MAIN SQUARE, ALL PURSUANT TO IC 36-1-3, IC 36-1-4, IC 36-8 AND IC 36-9 ET SEQ.

Whereas, The Town of Highland is a local unit of general government governed by a Town Council, which is both the fiscal and legislative body of the Town;

Whereas, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

Whereas, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through passage of an ordinance passed by the legislative body;

Whereas, I.C. 36-9-2-7 provides that municipalities may regulate the use of public ways; and,

Whereas, I.C. 36-8-2-4 A unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare

Whereas, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

Whereas, The Town of Highland, is a municipality located in Lake County, which operates a Parks and Recreation Department, which has been continuously governed by the provisions of IC 36-10-3 at least since 1969;

Whereas, The Town of Highland, through its Town Council now wishes to further perfect its own organization as well as that of the Parks and Recreation Department and make certain technical corrections and enhancements to the ordinance establishing and governing the Department of Parks and Recreation, pursuant to Indiana laws cited herein; and,

Whereas, The Town Council believes this action to be necessary and desirable for the conduct of the affairs of the Town, and in the public interest, consistent with the powers granted under IC 36-1-3 et seq.;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Municipal Code be amended by adding a new section to be numbered Section § 130.04 and to be styled as **PREMISES WHERE SKATEBOARDING IS PROHIBITED**, which shall read as follows:

§130.04 PREMISES WHERE SKATEBOARDING IS PROHIBITED

(A) It is an offense for a person or persons to ride, drive or propel a skateboard on or around the following public places:

- (1) The porch, stairs, walkways, approaches and parking lot of the Highland Municipal Building, 3333 Ridge Road, Highland.
- (2) The public ways, sidewalks, bump-outs, public landscaping and plant holders located on the 2600 to 3000 blocks of Highway Avenue
- (3) The public ways, sidewalks, bump-outs, public landscaping and plant holders located on the northern side of the 2800 to 3000 blocks of Jewett Street.

(B) Signs conspicuously displayed near or on the premises giving notice of this prohibition regarding riding, driving or propelling a skateboard on or around the identified public place(s) shall be posted giving notice of such regulation.

Section 2. That Section §130.99 titled as *Penalty* of the Highland Municipal Code be amended by repealing it in its entirety and replacing it with a new section to be numbered 130.99, *entitled Penalty and* which shall read as follows:

§ 130.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in Section § 10.99.

(B) An officer of the Town of Highland Metropolitan Police Department may issue an ordinance violation citation to any person, firm or corporation who violates or fails to comply with this chapter.

(C) The penalty for the violation of Section § 130.02 of this chapter shall be a fine not to exceed \$2,500 for each offense.

(D) Violation of Section § 130.03 shall subject the violator to a fine of not less than Twenty-Five Dollars (\$25.00) and no more than Two Thousand Five Hundred Dollars (\$2,500.00) for each violation.

(E) The penalty for violations of §§ 130.15 through 130.18 of this chapter shall be punished by a fine not to exceed \$100 for each offense. Each violation of said sections shall constitute a separate offense.

(F) Any person, entity or organization who shall violate Section § 130.04 of this chapter shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in § 131.06.

(G) If such persons, entity or organization shall violate Section § 130.04 any provisions of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violations shall be construed as justiciable offenses and shall be subject to a fine of not less than \$25 per violation, nor more than \$2,500. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

Section 3. That the Highland Municipal Code be amended by adding a new section to be numbered Section § 150.51 and to be styled as *Skateboarding is Prohibited*, which shall read as follows:

§ 150.51 SKATEBOARDING IS PROHIBITED

(A) It is an offense for a person or persons to ride, drive or propel a skateboard on or around the following park locations and places:

- (1) The stairs, walkways, platform, landing and approaches of the Gazebo at Main Square Park.
- (2) The walkways, grounds, improvements, buildings, structures, playground sites and parking lot(s) at Main Square Park.

(B) Signs conspicuously displayed near or on the premises giving notice of this prohibition regarding riding, driving or propelling a skateboard on or around the identified public place(s) shall be posted giving notice of such regulation.

Section 4. That the provisions set forth in this ordinance shall become and remain in full force and effect thereafter, immediately following the date of its passage and adoption, upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 11th day of June 2007. Consideration on same day or at same meeting of introduction was not entertained, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 25th Day of June 2007 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/Daniel E. Dernulc, President (IC 36-5-2-10)

Attest:

/s/Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Introduced Ordinance No. 1361:** Amending the Highland Code of Ordinances to regulate the use of consumer fireworks. Councilor Wszolek introduced and filed Ordinance No. 1361 at the Town Council Meeting of June 11, 2007. There was no further action.

Councilor Wszolek moved to adopt Ordinance No. 1361. Councilor Helmer seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed

**TOWN OF HIGHLAND, LAKE COUNTY, INDIANA
ORDINANCE NO. 1361**

**AN ORDINANCE AMENDING THE HIGHLAND CODE OF ORDINANCES TO REGULATE THE USE OF
CONSUMER FIREWORKS**

WHEREAS, Indiana Code 36-1-3 et seq., authorizes the Town of Highland, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents, and to preserve the peace, order and safety of the Town; and

WHEREAS, The Town Council of the Town of Highland, Lake County, Indiana, has been advised that Indiana Senate Enrolled Act No. 113 (2007) were recently adopted, and that said new legislation amends Indiana Code § 22-11-14, et seq.; and

WHEREAS, The Town Council of the Town of Highland, Lake County, Indiana, has been informed and advised that Indiana Code § 22-11-14, et seq. includes, but is not limited to, the following amendments, namely: (1) removal of the requirement that a purchaser of consumer fireworks provide written assurances that fireworks purchased in Indiana will be shipped out of state within five (5) days of purchase; (2) renames common fireworks as consumer fireworks; (3) sets conditions for fire works sales and issuance of the permits to do so; (4) establishes requirements for

discharge of consumer fireworks at a location; (5) provides that counties and municipalities may adopt ordinances to regulate the time and location for the use, ignition, or discharge of fireworks; and (6) provides that a fireworks usage regulations ordinance may not limit the use of fireworks on certain days during certain times of the year; and

WHEREAS, The Town Council of the Town of Highland, Lake County, Indiana, has determined that use of fireworks within the corporate boundaries of the Town of Highland requires unique and special supervision in order to protect and preserve the health, safety and welfare of citizens of the Town of Highland; and

WHEREAS, The Town Council of the Town of Highland, Lake County, Indiana, has reviewed the applicable provisions of the current Town Code and Indiana Code § 22-11-14, *et seq.*, as amended from time to time, pertaining to the legal display and usage of fireworks; and

WHEREAS, The Town Council of the Town of Highland, Lake County, Indiana, having reviewed all matters relevant hereto, including applicable provisions of the Highland Code of Ordinances, the Indiana Code, and recommendations of the Highland Fire Chief, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of Highland that amendment be made to the Highland Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA:

Section 1. Subsection (10) of § 95.02(B) of the Highland Code of Ordinances is hereby repealed.

Section 2. Title IX (General Regulations) of the Highland Code of Ordinances is hereby amended by the addition of a new Chapter to be numbered 96, which shall read as follows:

CHAPTER 96. REGULATION OF CONSUMER FIREWORKS

§96-01. Definition – “Consumer Fireworks”

For the purposes of this Chapter, Consumer Fireworks shall mean consumer fireworks as defined by Indiana Code Section 22-11-14-1.

§96-02. Use and discharge of Consumer Fireworks

- (A) **Age Requirement.** Consumer Fireworks shall not be purchased by persons less than eighteen (18) years of age.
- (B) **Possession by Minors.** Children shall only possess or use any kind of fireworks when an adult is present.
- (C) **Location of Use.** Consumer Fireworks shall exclusively be used on:
 - i. The user's property; or
 - ii. The property of someone who has consented to the use of fireworks on the property; or
 - iii. A location authorized by Special Permit as a special discharge location, that is defined as a place designated for the discharge of consumer fireworks under policies of the State Fire Marshall in effect until the Fire Prevention and Building Safety Commission adopts rules, as amended from time to time.
- (D) **Time of Use.** Consumer Fireworks may not be used, ignited or discharged within the corporate limits of the Town of Highland except during the following times:
 - i. Between 5:00 p.m. and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;
 - ii. Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and
 - iii. Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
- (E) **Exemptions.** This Ordinance shall not be construed to prohibit the use of fireworks by railroads or other transportation agencies, the sale or use of blank cartridges for a show, ceremonial purpose, use by military organizations, the intrastate sale of fireworks not approved for sale in Indiana between interstate wholesalers, use of indoor pyrotechnics special effects material and the possession, sale or disposal of fireworks incidental to the public display of authorized Class B fireworks.

§96-03. Sales.

Retailers may not sell Consumer Fireworks within the Town of Highland until the retailer has met all permit requirements and has obtained a Certificate of Compliance from the State Fire Marshal. A Certificate of Compliance issued to a retailer of Consumer Fireworks is not transferable except to a subsequent owner or operator of a business at the same location in accordance with the policies and guidelines of the State Fire Marshall.

§ 96.04 Penalty.

(A) Except as otherwise provided, any person, entity or organization who shall violate any provisions of this chapter shall be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in § 131.06.

(B) If such persons, entity or organization shall violate any provisions of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violations shall be construed as justiciable offenses, and upon conviction or a finding of liable, shall be subject to a fine of not less than \$100 per violation, nor more than \$2,500. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

Section 3. §131.06 (B) of the Highland Code of Ordinances is hereby replaced to read and provide as follows

Code Section	Violation	Fine
§96.04	Fireworks: Unlawful discharge of fireworks as defined by IC § 22-11-14, <i>et seq</i> and Chapter 96 of the Highland Code of Ordinances.	\$100.00

Section 4. All existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby repealed and declared to be null, void, and of no legal effect.

Section 5. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

Section 6. An emergency is declared requiring the immediate effectiveness of this Ordinance. It shall take effect immediately upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 11th Day of June 2007. Consideration on same day or at same meeting of introduction was not undertaken pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 25th Day of June 2007, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

/s/ Daniel E. Dernulc, President (IC 36-5-2-10)

ATTEST:

/s/ Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. **Resolution No. 2007-27:** An Exigent Resolution Providing for the Transfer of Appropriations Balance from and Among Major Budget Classifications in the Services and Works Board Department of the Corporation General Fund as requested by the Department head and forwarded to the Town Council for Action. **(This is to complete the purchase of vehicles for Building and Inspection Department. The previous transfer was \$100 in disparity from the actual need for purchase.)**

Councilor Wszolek moved the passage and adoption of Resolution No. 2007-27. Councilor Helmer seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed.

**TOWN of HIGHLAND
APPROPRIATION TRANSFER RESOLUTION
Resolution No. 2007-27**

An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Services and Works Board Department in the Corporation General Fund as Requested by the Department Head (s) or Proper Officer (s) and Forwarded to the Town Council for its action pursuant to IC 6-1.1-18-6.

WHEREAS, It has been determined that certain exigent conditions have developed since adoption of the annual budget and it is now necessary to transfer certain appropriations into different categories than were appropriated in the annual budget for the various functions of the **Services and Works Board Department in the Corporation General Fund**;

WHEREAS, The Town Council has been advised that the transfer would involve creation and authorization of a major expense category, for which no appropriations were approved in the current budget;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

Section 1. That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes herein specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

Section 2. That it has been shown that certain existing appropriations in the **Services and Works Board Department of the Corporation General Fund** have unobligated balances which will not be needed at this time for the purposes for which appropriated, so it will not be necessary to increase the 2007 budget, and may be transferred as follows:

CORPORATION GENERAL FUND

Services and Works Board Department

<u>Decrease:</u>	Acct. 350.02 Streetlight Electric Service	<u>\$ 100.00</u>
	<i>Total 300 Series Reductions</i>	\$ 100.00

<u>Increase:</u>	Acct. 430.01 Bldg Dept Vehicles	<u>\$ 100.00</u>
	<i>Total 100 Series Increases</i>	\$ 100.00

Total of All Fund Decreases:	\$ 100.00
Total of All Fund Increases:	\$ 100.00

DULY RESOLVED and ADOPTED this 25th Day of June 2007 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Daniel E. Dernulc, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- 5. Authorization and Instruction to the Proper Officer publish legal notice for a public hearing to consider Additional Appropriations in Excess of the FY 2007 Budget in the amount of \$21,300 in the Parks and Recreation Non-Reverting Capital Fund, in the amount of \$50,691 in the Services and Works Board Department of the Corporation General Fund, and in the amount of \$20,000 in the Redevelopment General Fund (Notices for publication attached).**

At this time President Dernulc passed the gavel to Vice-President Wszolek to reside at this portion of the meeting due to a potential conflict of interest for President Dernulc. Councilor Helmer moved to advertise for a public hearing to additional appropriations. Councilor Herak seconded. Upon a roll call vote there were four affirmatives and one abstention with Councilor Dernulc abstaining. The motion passed.

- 6. Resolution 2007-28: A Resolution fixing Monday, July 23, 2007 as the date for a Public Hearing on an application for Property Tax Abatement related to**

proposed construction of a new medical office building at 8032 Kennedy Avenue, Dr. Joe Spott d/b/a Marilaur Properties, LLC applicant.

Dr. Joe P. Spott is Highland's first applicant for tax abatement related to the proposed construction of a \$1.35 million professional medical office building that would bring 17 jobs to town with an estimated \$895,000 annual payroll. At a meeting held June 13, 2007, the Redevelopment Commission found the development to be consistent with its development objectives and design standards and recommended a deduction period of 10 years.

Councilor Helmer moved the passage and adoption of Resolution 2007-28. Councilor Wszolek seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed

**TOWN OF HIGHLAND, INDIANA
RESOLUTION NO. 2007-28**

A RESOLUTION FIXING MONDAY, JULY 23, 2007 AS THE DATE FOR A PUBLIC HEARING ON AN APPLICATION FOR PROPERTY TAX ABATEMENT RELATED TO PROPOSED CONSTRUCTION OF A NEW MEDICAL OFFICE BUILDING AT 8032 KENNEDY AVENUE

WHEREAS, Indiana Code 6-1.1-12.1 et seq.; amended, (the "Act") allows a partial abatement of property taxes attributable to "Redevelopment" or "Rehabilitation" activities in "Economic Revitalization Areas" as those terms are defined in the Act, and

WHEREAS, property tax abatement, if approved, is applied as a deduction in the increase in assessed value that results from investment in new construction or rehabilitation of property; and

WHEREAS, on May 14, 2007, the Highland Town Council adopted Resolution No. 2007-23 designating an Economic Development Revitalization Area coterminous with the boundary of the Highland Redevelopment Area; and

WHEREAS, an application for property tax abatement for construction of a new medical office building (the "Project") to be located on premises legally described as Lot 1, Lot 2 and the South 40 feet of Lot 3, Homestead Commercial Addition to the Town of Highland, Lake County, Indiana a/k/a 8032 Kennedy Avenue (the "Real Estate") has been received from Dr. Joe P. Spott d/b/a Marilaur Properties, LLC, a copy of which is attached and incorporated herein by reference; and

WHEREAS, said application proposes construction of a new \$1.35 million building that would bring 17 jobs to Highland with an estimated \$895,000 annual payroll that may not proceed but for approval of tax abatement by the Town Council; and

WHEREAS, \$191,200 is the most recent assessed value of the property that is the subject of this resolution, a value assessed before improvements on the premises were demolished by the applicant; and

WHEREAS, \$1.08 million is the estimated assessed value of the property upon completion of the Project; and

WHEREAS, the Real Estate is located within an Economic Revitalization Area within the Town of Highland; and

WHEREAS, at a meeting held June 13, 2007, the Highland Redevelopment Commission found the proposed development to be consistent with its development objectives and design standards and recommended an abatement period of 10 years; and

WHEREAS, the Act empowers the Town Council to approve a deduction as percentage of the increase in assessed value that results from investments in new construction or rehabilitation of property by following a procedure hearing and confirmation of a Preliminary Resolution, provision of a public notice at least ten days before the date of a public hearing, conducting a public hearing and confirmation of a Final Resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Highland as follows:

Section 1. The Highland Town Council will consider an application for property tax abatement for construction of a new medical office building on the Real Estate which is the subject of this resolution after a public hearing and upon adoption of a Final Resolution confirming this Preliminary Resolution.

Section 2. The Final Resolution shall limit the amount of deduction applicable for redevelopment of said Real Estate for a period of time not to exceed ten calendar years to \$1.35 million cost with an assessed value of \$1.08 million.

Section 3. Pursuant to enabling authority provided at IC 6-1.1-12.1-2(h)(6), as a condition of approval for the deduction in assessed value, the applicant shall contribute \$13,500 to the Town of Highland at closing from loans proceeds secured for construction of the Project.

Section 4. The Town Council hereby fixes 7:00 PM, Monday, July 23, 2007 in the Council Chambers, Highland Town Hall, 3333 Ridge Road, Highland, Indiana, as the time and place for a public hearing for receiving testimony, remonstrances and objections from persons interested in or affected by the proposed property tax abatement and directs the

publication of notice of said hearing in accordance with the requirements of applicable law. After the public hearing, the Town Council will consider a Final Resolution that would grant tax abatement consistent with conditions described in this Preliminary Resolution.

TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA

Daniel E. Dernulc, President (IC 36-5-2-10)

ATTEST:

Michael W. Griffin, Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

7. **CDR No. 2007-21:** A council Decision Request Reporting Bids received and authorizing a contract for the Branton Avenue Reconstruction.

Councilor Helmer moved to accept the bids and authorize a contract for Branton Avenue. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed

8. **CDR No. 2007-22:** A Council Decision Requesting authorization to initiate a project for the installation of curbs in the 3200 block of Condit Street

A petition has been received from Cheryl Wilson Griffin regarding the installation of curbs in the 3200 block of Condit to be paid from assessments pursuant to the General Improvement District statutes. The 3200 block of Condit Street is currently on t paving schedule for this year. The petition is signed by 12 of the 16 property owners

Councilor Zemen moved to authorize a project for installation of curbs in the 3200 block of Condit Street as a General Improvement Project. Councilor Helmer seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed

NEW BUSINESS:

Proposed Ordinance No. 1362: An Ordinance governing the Prohibition and Removal of Graffiti.

This ordinance is proposed at the request of the Police Chief. It finds graffiti is obnoxious, contributes to neighborhood deterioration, provides a communication system for gangs and vandals, damages property and constitutes a public nuisance, which must be abated immediately to avoid the detrimental impact of graffiti on the town and its residents and to prevent the future spread of graffiti. The town attorney reports the property maintenance code provides authority for the town to lien property to recover its costs for removing graffiti if the property owner refuses to do it.

Councilor Herak introduced and filed Ordinance No. 1362. There was no further action.

Committee Reports

- Councilor Zemen reported that the New Police Candidate was waiting on approval from PERF. Councilor Zemen reported that the Park Block Party in Brantwood was a huge success and wanted to commend Alex Brown, Park Superintendent and the Park Department for a job well done.

Town Manager reported that the Fourth of July Festival had twenty nine (29) food vendors and thirteen (13 craft) vendors. He further commented that the

parade was on July 3, 2007 at 6:30 p.m. The Kiddie Parade started at 11:30 a.m. and would terminate at Main Square.

- Councilor Herak commented on the old stop light equipment at Hart Road and Kennedy Avenue. Mr. Bach responded that when the light was installed it was not new. He further stated that when the Kennedy Avenue project is completed he will try to locate a newer light to that location. It was further stated that the Ridge Road Water Tank painting should be completed July 29, 2007. The Hart Road Sanitary Sewer Project is in progress The Fire Chief stated that the Town is ready for the July 4th Celebration.

Councilor Helmer deferred to John Bach and Mr. Bach commented on the Eder Street Project. Mr. Bach further stated that the Sanitary District was going to approach the Water Board regarding a temporary loan.

- Councilor Wszolek reported there would be no BZA meeting this month. The Plan Commission study session was moved to July 11, 2007. He further commented that Mayor Morris was the speaker at a recent chamber seminar. Further the building Department had received their new vehicles.
- Council President Dernulc commented that Dr. Spott had asked for a public hearing on the tax abatement. He further commented on the hiring of a new police officer.

Comments from the Public for Matters not on the Agenda

This portion of the Town Council Meeting is reserved for persons who desire to address the Town Council. Depending on the nature of the comments, the Town Council may direct the staff to address the topic or follow-up on matters that may arise from public comments. If necessary, the matter may be set for action at a future meeting. Persons addressing the Town Council are requested to limit their presentations to **three (3) minutes** and to try to avoid repetitious comments

1. Marsha Lockery, 9535 5th Street, Commented on the fireworks that are constantly being shot off in her neighborhood.
2. Joe Bartok, 9324 Spring Street, Inquired "How is the Town using its Gaming Revenue" Mr. Bach responded "for road construction."
3. Jim Milligan, 3148 Eder Street, Commented about giving tax abatement to everyone. Attorney Rhett Tauber commented that the application was fact sensitive. Mr. Milligan further commented about Youth Commission.
4. Rick Volbrecht, 9221 Parkway Drive, Commented about the enforcement of fireworks.
5. Mr. William Hertzfeldt, 3410 – 41st Street, Inquired about raises for the Town employees. He further inquired about the vacant Jewel Store building. Mr. Hertzfeldt commented about the Town of Munster's Centennial.
6. Mr. Mike Carrier, 8049 Duluth, Praised Mr. Bach regarding mowing empty lot behind his house. He also thanked Mr. Brown for mowing. Mr. Carrier voiced his concerns regarding the Army Corp of Engineers bringing in piles of dirt. Mr. Bach is to look into this matter.

7. Julie Kane, 8904 Parrish, Inquired about garage sale signs. Mr. Mika stated that by ordinance they are allowed on private property only.

Payment of Accounts Payable Vouchers. There being no further comments from the public regarding matters not on the agenda, Councilor Helmer moved to allow the accounts payable vouchers as filed on the pending pay docket, covering the period June 15, 2007 through to June 22, 2007. Councilor Zemen seconded. Upon a roll call vote, there were 5 affirmatives, no negatives. The motion passed. The accounts payable vouchers were allowed and the deputy clerk-treasurer was authorized to make payment.

General Fund, \$178,633.04; Motor Vehicle Highway and Street (MVH) Fund, \$19,981.62; Local Roads and Streets Fund, \$93,259.55; Law Enforcement Cont. Education and Supply Fund, \$1,391.05; Information and Community Technology Services (ICT) Fund, \$9,481.24; Civil Donation Fund, \$74.01; Police Pension Fund (1925), \$57,015.81; Unsafe Building Fund, \$2,456.00; Gasoline Fund, \$14,945.00; Solid Waste Fund, \$139.65; Payroll Fund, \$193.88; MCCD Fund, \$655.13; Municipal Cumulative Street Fund, \$2409.00; Special Events Fund, \$11,343.50; Total: \$391,978.48.

Adjournment of Regular Session. Councilor Helmer moved that the regular session of the meeting be adjourned. Councilor Wszolek seconded. Upon a vote *viva voce*, the motion passed. The regular session of the Town Council meeting of Monday, June 25, 2007 was adjourned at 8:44 O'clock p.m.

Study Session. The Twenty Fifth Town Council of the Town of Highland, Lake County, Indiana met in a study session following the regular meeting on Monday, June 25, 2007 at 8:57 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Robert Helmer, Joseph Wszolek, Mark Herak and Dan Dernulc were present. The Deputy Clerk-Treasurer, Carol Morrison was present to record the proceedings. A quorum was attained.

Richard Underkofler, Town Manager; Peter Hojnicki, Highland Chief of Police; John Bach, Public Works Director; were also present.

Also present: Pat Popa, Sheila Courtright and Judith Mayer representing the Highland Downtown Association.

General Substance of Matters Discussed.

1. Pat Popa, Sheila Courtright and Judith Mayer representatives from the Downtown Association presented a rendering of the proposed "Welcome to Highland" sign that the association would like to present to the Town of Highland. The cost of the sign is \$40,000.00. Four (4) trees would need to be removed however; the Association would plant four (4) replacement trees at a desired location of the Town Council. The design of the sign, with a working clock, picks up the design of the Bluetop Drive-In and Hoosier Highlander sign as well as the design of the Town Theatre. The time frame for installing the sign is September. It would be the Town's responsibility to maintain the sign.
2. The Town Council discussed with the Downtown representatives the sign and their appreciation. The Town Council asked that they contact the Redevelopment Director, Cecile Petro and have her review the drawings for further input.

At this time the representatives from the Downtown Association departed. (9:20p.m.)

3. The Town Council & the Town Manager discussed updates to the strategic plan.
4. The Town Council and the Town Manager discussed the high deductible on the property and inland marine insurance. There was further discussion of setting aside money in the Rainy Day Fund to cover the large deductible.
5. The Town Council discussed purchasing candy for the parade and the type of candy to purchase. It was determined that the Town Council, Town Manager and Clerk-Treasurer would spend \$50.00 each.

There being no further business before the Town Council to discuss, the study session following the regular meeting of Monday, June 25, 2007 was adjourned at 10:30 o'clock p.m.

Carol L. Morrison, IAMC/CMC
Deputy Clerk-Treasurer